IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

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WRIT PETITION NO : 867 of 1995

Between:

The Management of Singareni Collieries Co. Ltd. rep. by General Manager
Sreerampur (Projects) Area, Sreerampur-03,
Adilabad Dist., A.P.

..... PETITIONER

AND

1 The Industrial Tribunal-I, rep. by Presiding Officer
Chandra Vihar, M.J. Road, Hyderabad
2 Sri N. Sammaiah S/o Narsaiah
Dandepally (V), Velkathurthy (M),
Huzurabad Tq., Karimnagar Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction or writ particularly one in the nature of Writ of Certiorari after calling for the records from the 1st respondent in M.P.No.141/1989 in I.D.Nos.56/1984 & 10/1989 and quash the Order passed therein,
dt: 30-5-1994.

Counsel for the Petitioner:MR.K.SRINIVASAMURTHY

Counsel for the Respondent No.1: GP for LABOUR.

Counsel for the Respondent No.2: MR.B.NALIN KUMAR

The Court made the following :

O R D E R:

This Writ Petition is filed assailing the order passed by the Industrial Tribunal, Hyderabad in M.P.No.141 of 1989 in I.D.No.56 of 1984 in I.D.No.10 of 1989, dated 30-05-1994.

2. The second respondent was terminated from service during pendency of the industrial dispute. Therefore, after complying Section 33 (2) (b) of the Industrial Disputes Act, 1947 (for short "the Act"), an application was filed by the management before the Tribunal for approval of the action taken by it.

3. The learned Tribunal, however, holding that the money order receipt was not filed, set aside the order of termination by its order dated 30-05-1994. Aggrieved by the same, the present Writ Petition has been filed by the Management.

4. The learned counsel for the petitioner-management, however, submitted that one-month wages were sent by money order and the same was also entered in Form 'B' Register and it was also perused by the Tribunal. Under those circumstances, non-filing of money order receipt is not relevant for the purpose of deciding the issue, and therefore, the order of the Tribunal is liable to be set aside.

5. The learned counsel for the second respondent-workman submitted that since there is an application of Section 33 (2) (b) of the Act, the order of the Tribunal cannot be said to suffer from any infirmity or illegality.

6. I have heard the learned counsel for both the parties.

7. The only ground on which the application was rejected is

that the Management did not file the money order receipt. But, however, the Management submitted Form 'B' Register, from which, it is seen that one month wages were sent by money order. However, whether the money order was refused or whether the amount was paid is not forthcoming before the Tribunal. Under those circumstances, I am of the considered view that the matter requires re-consideration by the Tribunal with regard to the fact that whether the amount was received or the money order was returned.

8. Under those circumstances, the impugned order is set aside and the matter is remitted back to the Tribunal for fresh consideration. The Tribunal shall afford an opportunity to both the parties to adduce evidence, if they intend to do so, and pass appropriate orders within a period of four months from the date of receipt of a copy of this order.

9. Accordingly, the Writ Petition is allowed. No costs.

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G.BIKSHAPATHY, J

Dated: 28-10-2004

Prv

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devender Gupta, the Chief Justice on this Thursday, the Twenty Eighth Day of October, Two Thousand and four.

To

1 The Presiding Officer, Industrial Tribunal-I,
Chandra Vihar, M.J. Road, Hyderabad

2. Two CCs to the GP for LABOUR, High Court

of A.P., Hyderabad(O.U.T).

3. Two CD copies